

Remarks

Claims 1, 3-5, 12, 13 and 15-17 are pending herein. By this Amendment, claims 1, 5, 13 and 16 have been amended.

Claim 16 has been amended to clarify that the recited percentages of (M) and (B) are based on the total weight of each composition. Support for this amendment is based on the language at lines 1-2 of claim 16: “[t]hermoplastic compositions comprising by weight”, which indicates that the recited percentages by weight are based on the weight of the total composition. Applicants submit that this amendment to claim 16 does not narrow the scope of the claim because it clarifies what the existing phrase “[t]hermoplastic compositions comprising by weight” already encompassed.

Claim 1 has been amended to change the term “parts” to --percent by weight--, and to include the recitation --the percentages by weight of (M) and (B) being based on the total weight of each composition--. Support for this amendment to claim 1 can be found, e.g., in instant claim 16, which already uses “percent” and “compositions comprising by weight” recitations with respect to the amounts of (M) and (B).

Claims 5 and 13 have been amended to be consistent with the amendments to claim 1.

In the Office Action, claims 16 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,576,309 to Dalgewicz, III et al. (“Dalgewicz”); and claims 1, 3-5, 12, 13 and 15 are rejected under §103(a) as being unpatentable over Dalgewicz.

In view of the amendments and remarks herein, Applicants respectfully request reconsideration and withdrawal of the rejections set forth in the Office Action.

I. Rejection of Claims 16 and 17

Claims 16 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dalgewicz. Dalgewicz is cited for disclosing thermoplastic compositions comprising a bulk polymer, an additive in a concentration of from about 4 to about 40 weight percent, and a compatibilizer/emulsifier/surfactant (“CES”) in a concentration of from about 0.1 to about 8 weight percent, based on the total weight of the composition. The bulk polymer comprises a polyester, the additive comprises an amorphous copolymer of ethylene and a comonomer that forms polar portions, and the CES comprises a copolymer or terpolymer of ethylene and a glycidyl acrylate or maleic anhydride, and optionally, an acrylate such as ethylhexyacrylate. According to the Office Action, ethylene/glycidyl methacrylate/ethylhexyl acrylate terpolymer and ethylene/maleic anhydride/ethylhexyl acrylate terpolymer meet the presently claimed component B and are immediately envisaged species from the small genus of CES polymers disclosed by the reference.

The Examiner states that Dalgewicz differs from claims 16 and 17 in not expressly exemplifying the use of a polyamide. However, the Examiner further states that:

[in] this regard, attention is directed to column 7, lines 48-51, which states that minor amounts of one or more additional polymers (e.g., up to about 10 percent by weight), such as polyamides, can optionally be incorporated into the composition. Accordingly, it would have been obvious to one having ordinary skill in the art to have additionally incorporated a polyamide into patentees’ base composition for its expected additive effect and with the reasonable expectation of success. Thus, a composition containing, for

example, up to 10 percent by weight polyamide and about 3 percent by weight of one of the above-identified CES terpolymers meeting the applicants' component B, based on the total weight of the composition, would meet the compositional requirements of the present claims both in terms of the types of materials added and their contents. This is because in the present claims, the recited amounts governing the polyamide and component B can be interpreted as being based on the sum total of said two components, as opposed, to the total weight of the composition.

Applicants respectfully submit that claims 16 and 17 would not have been obvious over Dalgewicz.

As noted in the Office Action, Dalgewicz differs from claims 16 and 17 in not expressly exemplifying the use of a polyamide. As further noted in the Office Action, Dalgewicz discloses that the composition therein may include minor amounts of a polyamide, which the patent teaches means up to about 10 percent by weight (col. 7, lines 48-50). The composition set forth in instant claim 16 contains from 75 to 85% of a polyamide or polyamide block copolymer, the percentage being based on the total weight of the composition. Dalgewicz does not teach or suggest the use of a polyamide or polyamide block copolymer in such amounts. Thus, for at least this reason, Applicants respectfully submit that Dalgewicz would not have rendered instant claims 16 and 17 obvious.

II. Rejection of Claims 1, 3-5, 12, 13 and 15

Claims 1, 3-5, 12, 13 and 15 are rejected under §103(a) as being unpatentable over Dalgewicz.

In this rejection, the Dalgewicz patent is cited for the same reasons it was cited in the rejection of claims 16 and 17. However, the Examiner notes that Dalgewicz differs from instant claims 1, 3-5, 12, 13 and 15 in that the patent does not expressly exemplify the use of a polymer meeting Applicants' matrix M. However, according to the Office

Action:

[in] this regard, attention is directed to column 7, lines 48-51, which states that minor amounts of one or more additional polymers (e.g., up to about 10 percent by weight), such as polycarbonates, can optionally be incorporated into the composition. Accordingly, it would have been obvious to one having ordinary skill in the art to have additionally incorporated a polycarbonate into patentees' base composition for its expected additive effect and with the reasonable expectation of success. Thus, a composition additionally containing polycarbonate would meet applicants' polycarbonate-polyester alloys, as well as, polycarbonate matrices. With respect to the polycarbonate embodiment, patentees' composition containing, for example, up to 10 percent by weight polycarbonate and about 3 percent by weight of one of the above-identified CES terpolymers meeting the applicants' component B, based on the total weight of the composition, would meet the compositional requirements of the present claims both in terms of the types of materials added and their contents. This is because in the present claims, the recited amounts governing the polycarbonate and component B can be interpreted as being based on the sum total of said two components, as opposed, to the total weight of the composition.

Applicants respectfully submit that claims 1, 3-5, 12, 13 and 15 would not have been obvious over Dalgewicz.

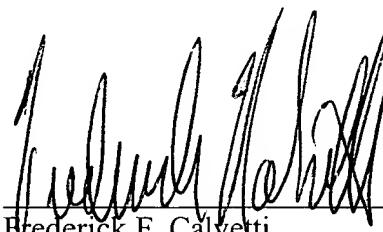
As noted in the Office Action, Dalgewicz differs from claims 1, 3-5, 12, 13 and 15 in that the patent does not expressly exemplify the use of a polymer meeting Applicants'

matrix M. Although Dalgewicz discloses that the bulk polymer therein is a polyester and that the composition therein may include "minor" amounts, i.e., up to about 10 percent by weight, of a polycarbonate, Applicants submit that this disclosure does not teach or suggest the use of from 40 to 97 percent by weight of a polycarbonate-polyester alloy based on the total weight of the composition. Dalgewicz does not teach or suggest the use of a polycarbonate-polyester alloy in such amounts. Thus, for at least this reason, Applicants respectfully submit that Dalgewicz would not have rendered instant claims 1, 3-5, 12, 13 and 15 obvious.

III. Conclusion

In view of the amendments and remarks herein, Applicants respectfully request that the rejections set forth in the Office Action be withdrawn and that claims 1, 3-5, 12, 13 and 15-17 be allowed.

Respectfully submitted,



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